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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,170	12/01/2003	Steven M. Schein	ST-027 Cont	2063
75563	7590	07/23/2009		
ROPES & GRAY LLP PATENT DOCKETING 39/361 1211 AVENUE OF THE AMERICAS NEW YORK, NY 10036-8704			EXAMINER IDOWU, OLUGBENGA O	
			ART UNIT 2425	PAPER NUMBER
			MAIL DATE 07/23/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/725,170

Applicant(s)

SCHEIN ET AL.

Examiner

OLUGBENGA O. IDOWU

Art Unit

2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 4/8/2009
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. Applicant's arguments with respect to claims 1 - 20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims **1 – 4, 9 – 12 and 17 – 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks, patent number: 5 798 785 in view of Herz, patent number: 5 758 257.

As per claims 1, 9 and 17, Hendricks teaches an interactive electronic program guide (IPG) including a display screen comprising:

a database local to a viewer for storing television schedule information including information about television programs and a plurality of criteria associated with each television program (database on STB storing abstracts, col. 30, lines 40 – 50, lines 10 - 13); and

a microprocessor local to the viewer (microprocessor, col. 9, line 66) configured to automatically generate a set of favorite criteria about television programs that the viewer would likely be interested in (the STB understanding the user and creating a profile, col. 29, lines 26 - 37), search the database for identifying a television program that includes

at least one of the favorite criteria (searching the database, col. 30, lines 43 - 44), tag the identified television program stored in the local database that includes the at least one of the favorite criteria (selecting programs, col. 30, lines 47 - 49), and in response to the automatic tagging, activate a function of the IPG related to the tagged television program without viewer's intervention (displaying a list of suggested programs to viewer, col. 30, lines 48 - 50).

Hendricks does not teach generating favorite criteria without user intervention.

In an analogous art, Herz teaches generating favorite criteria without user intervention (automatically adjusting user profile, col. 14, lines 4 - 10)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hendricks' program suggestion system by including a system that updates user profile as described in Herz's broadcast scheduling system for the advantages of creating a system that is tailored to the user without the user having to go out of their way to adjust profiles whenever likes or dislikes change.

As per claims 2, 10 and 18, the combination of Hendricks and Herz teach further comprising a display controller for automatically displaying on the display screen a portion of the schedule information including the identified television program in guide format (Hendricks: displaying a list of suggested programs to viewer, col. 30, lines 48 - 50).

As per claims 3, 11 and 19, the combination of Hendricks and Herz teach wherein the favorite criteria includes one or more of actor's name (Hendricks: actor, col. 30, line 55), director's name, type of program, other broadcast times, other broadcast sources, and program theme.

As per claims 4, 12 and 20, the combination of Hendricks and Herz teach wherein the microprocessor is configured to monitor and store the viewer's selections of television programs, and heuristically learn the viewer's favorite criteria according to the viewer's selections of television programs (Hendricks: the STB understanding the user and creating a profile, col. 29, lines 26 - 37).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims **5, 6, 8, 13, 14 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks, patent number: 5 798 785 in view of Herz, patent number: 5 758 257, in further view of Levine, patent number: 5 692 214.

As per claim 5 - 6 and 13 - 14, the combination of Hendricks and Herz teach a system that selects and presents programs that a user might like.

The combination does not teach a system where the tagged program is automatically tuned to.

In an analogous art, Levine teaches wherein the activated function is automatically programming a recording device to record the tagged television program at scheduled telecast time (automatic recording, col. 4, lines 18 – 31, 40 - 45).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination of Hendricks and Herz by including an automatic recording system as described in Levine for the advantages of unattended recording, and compensating for changes in recording schedule.

As per claims 8 and 16, the combination of Hendricks and Herz teach a system that selects and presents programs that a user might like.

The combination does not teach a system that downloads the tagged program.

In an analogous art, Levine teaches wherein the activated function is automatically downloading a copy of the tagged television program to a digital storage medium at scheduled telecast time (Levine: automatic recording, col. 4, lines 18 – 31, 40 – 45, Hendricks: digital signals, col. 6, line 8).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination of Hendricks and Herz by including an automatic recording system as described in Levine for the advantages of unattended recording, and compensating for changes in recording schedule.

6. Claims **7 and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks, patent number: 5 798 785 in view of Herz, patent number: 5 758 257 in view of Mondrosch, patent number: 5521589.

As per claims 7 and 15, the combination of Hendricks and Herz teach a system that selects and presents programs that a user might like.

The combination does not teach a system that automatically sets a reminder.

In an analogous art, Hashimoto teaches a system that automatically sets a reminder (automatic reminder, col. 3, line 57 – col. 4, line 6).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination of Hendricks and Herz by including a reminder system as described in Mondrosch time activated announcement system for the advantages of overcoming user error in cases when the user forgets to set reminders.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUGBENGA O. IDOWU whose telephone number is (571)270-1450. The examiner can normally be reached on Monday to Friday, 7am - 5pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendelton can be reached on 571 272 7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olugbenga O Idowu/
Examiner, Art Unit 2425

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2425